

B. W. asks the Utah Labor Commission to review Administrative Law Judge Eblen's decision of July 22, 2003, regarding Ms. W.'s claim for benefits under the Utah Workers' Compensation Act ("the Act"; Title 34A, Chapter 2, Utah Code Ann.).

The Labor Commission exercises jurisdiction over this motion for review pursuant to Utah Code Ann. §63-46b-12 and Utah Code Ann. §34A-2-801(3).

### **BACKGROUND AND ISSUES PRESENTED**

On February 27, 2001, Ms. W. filed an application for hearing with the Commission seeking workers' compensation benefits from Intracorp and its insurance carrier, ACE USA (referred to jointly as "Intracorp"). In her application, Ms. W. claimed benefits for "increased hand pain with (repetitive) motion" as a result of "overuse syndrome, extensor tendonitis."

Ms. W.'s claim was assigned to Judge Eblen for adjudication. While the claim was pending, Ms. W. underwent additional medical treatment and diagnosis. Among the various ensuing medical opinions is that of Dr. Sellers, Intracorp's consulting physician, who concluded among other things that Ms. W.'s work at Intracorp contributed to her extensor tendonitis. Also during this time, Ms. W. was diagnosed with thoracic outlet syndrome and underwent surgery for that condition.

Judge Eblen appointed a medical panel to consider whether Ms. W.'s thoracic outlet syndrome was medically caused by her work at Intracorp. Judge Eblen did not ask the panel to address Ms. W.'s other medical problems. The panel concluded that Ms. W.'s thoracic outlet syndrome was not caused by her work at Intracorp.

Based on the medical panel's opinion, Judge Eblen issued her first decision, dismissing Mrs. W.'s claim as it related to her thoracic outlet syndrome. However, Judge Eblen's decision failed to address Ms. W.'s claim for benefits based on her alleged "overuse syndrome, extensor tendonitis." Because of this omission, Ms. W. requested Labor Commission review of Judge Eblen's decision.

On May 30, 2003, the Commission remanded this matter to Judge Eblen to consider the extensor tendonitis claim. On July 22, 2003, Judge Eblen issued a second decision awarding benefits to Ms. W. for her extensor tendonitis but declining to consider Ms. W.'s additional arguments related to her thoracic outlet syndrome, or Ms. W.'s new allegation that she suffered from work-related reflex sympathetic dystrophy ("RSD").

Ms. W. now asks the Commission to review Judge Eblen's second decision. In summary, Ms. W. contends the scope of her claim for workers' compensation benefits should be enlarged to include additional manifestations of overuse syndrome such as carpal tunnel syndrome and RSD. She alleges that another individual's medical records were mistakenly included with her own records and that this error may have affected Judge Eblen's decision. Finally, she addresses the medical evidence related to her thoracic outlet claim.

### **FINDINGS OF FACT**

The Commission adopts Judge Eblen's findings of facts regarding Ms. W.'s work for Intracorp and her various injuries and medical problems.

### **DISCUSSION AND CONCLUSION OF LAW**

Ms. W. contends that, after the Commission remanded this matter to Judge Eblen for further proceedings, Judge Eblen should have expanded the scope of Ms. W.'s claim beyond the injuries identified in her application for hearing. In considering this argument, the Commission notes that while the evidentiary proceedings were pending before Judge Eblen, Ms. W. did not amend her application to include these other medical conditions. Consequently, the evidence in this matter focuses only on the items Ms. W. listed in her original application. At this late date, it would be unfair to Intracorp to allow Ms. W. to argue new claims. It would also undermine the efficiency of the adjudicative system. The Commission therefore concurs with Judge Eblen's refusal to consider Ms. W.'s new claims as part of this adjudicative proceeding.

With respect to Ms. W.'s other arguments, the Commission finds no indication that Judge Eblen's decisions were in any way based on incorrect medical records. Likewise, the Commission finds no error in Judge Eblen's appointment of a medical panel or Judge Eblen's evaluation of the medical evidence.

### **ORDER**

The Commission affirms Judge Eblen's decision and denies Ms. W.'s motion for review. It is so ordered.

Dated this 21<sup>st</sup> day of July, 2005.

R. Lee Ellertson, Commissioner